

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

WOODROW RAYMOND NOVAK, JR.

§

Plaintiff,

§

versus

CIVIL ACTION NO. 9:19-CV-190

RONNY W. THOMAS, et al.,

§

Defendants.

§

**ORDER ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff, Woodrow Raymond Novak, Jr., an inmate formerly confined at the Gib Lewis Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, brought this lawsuit against several Defendants¹ alleging civil rights violations under 42 U.S.C. § 1983. The court referred this matter to the Honorable Christine L. Stetson, United States Magistrate Judge, for consideration pursuant to the applicable laws and orders of this court. On November 28, 2022, the magistrate judge entered a Report and Recommendation (#95) in which she recommended denying the Motion for Summary Judgment filed by Defendants Ronny W. Thomas, Chelsea Duff, and Victor White on failure to exhaust administrative remedies, but granting the motion as to the merits. On December 2, 2022, the magistrate judge entered another Report and Recommendation (#98) in which she recommended dismissing Plaintiff's claims against Defendants Helen Sheffield and William Jerry for failure to serve within 90 days pursuant to Federal Rule of Civil Procedure 4(m). On December 30, 2022,

¹ In his Amended Complaint filed April 5, 2021, Plaintiff dropped his claims against Defendants Angelle Maria Sessum and Luis G. Schaeffer (doc. # 28).

Plaintiff filed Objections to the December 2, 2022, Report and Recommendation (#104). However, on February 13, 2023, Plaintiff filed a Motion to Dismiss his claims against Defendants Helen Sheffield and William Jerry without prejudice (#108).² No Objections have been filed as to the November 28, 2022, Report and Recommendation.³

The court received and considered the Reports and Recommendations of the United States Magistrate Judge pursuant to such referral, Plaintiff's Motion to Dismiss his claims against Defendants Helen Sheffield and William Jerry, along with the record, pleadings and all available evidence. After careful review, the court finds that the findings of fact and conclusions of law of the United States Magistrate Judge are correct.

Accordingly, the Report and Recommendation of the United States Magistrate Judge filed November 28, 2022 (#95) is **ADOPTED**; the Report and Recommendation of the United States Magistrate Judge filed December 2, 2022 (#98) is **PARTIALLY ADOPTED**, to the extent it recommends dismissal without prejudice. The Motion for Summary Judgment filed by Defendants Ronny W. Thomas, Chelsea Duff, and Victor White (#79) is **GRANTED** as to the merits. Plaintiff's claims against Defendants Ronny W. Thomas, Chelsea Duff, and Victor White are **DISMISSED** with prejudice. Plaintiff's Motion to Dismiss his claims against Defendants Helen

² The Report and Recommendation recommended Plaintiff's claims against Defendants Helen Sheffield and William Jerry be dismissed without prejudice (#104).

³ Plaintiff provided a notice of change of address on December 15, 2022 (#102). The two Reports and Recommendations sent to Plaintiff at the Gib Lewis Unit originally were returned as undeliverable on December 29, 2022, and January 9, 2023 (#s 103 & 105). The Clerk of Court, however, on December 15, 2022, re-mailed the two Reports and Recommendations to Plaintiff at the new address. There is no documented mail return on either Report and Recommendation. In fact, Plaintiff initially filed Objections to the December 2, 2022, Report and Recommendation, indicating he received both Reports and Recommendations.

Sheffield and William Jerry (#108) is **GRANTED**, and his claims against them are **DISMISSED** without prejudice.

SIGNED at Beaumont, Texas, this 2nd day of March, 2023.

Marcia A. Crone

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE